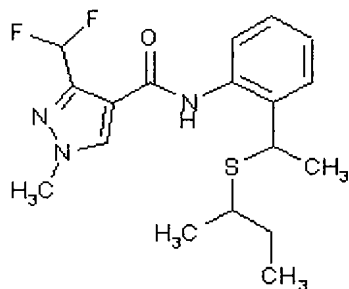


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M-1.

Claims 1-3 read on the elected Group. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

The Office has also required Applicant to elect a single species from among compounds of formula I. Applicants provisionally elect compound 80, shown below, as a species of formula I.



This election is made with traverse.

This application is a National Phase Entry Under 35 U.S.C. § 371 and, as such, PCT Rule 13 requiring unity of invention applies. Title 37 of the Code of Federal Regulations states:

(b) An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combination of categories: . . .

(3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; . . .37 C.F.R. § 1.475 (b)(1)(2).

Elected Group I is directed to compounds of formula I, Group II is directed to a process for preparing the compounds of formula I, and Group III is directed to a method of using the compounds of formula I as pesticides and herbicides. Groups I, II and III therefore share unity of invention because the special technical feature common to all the claims in the groups is the composition of Group I. Applicants therefore respectfully assert that the Groups I, II and III share unity of invention and the Restriction Requirement is improper.

The Examiner has stated that the claims lack unity of invention since the claims allegedly are not so linked within the meaning of PCT Rules 13.1 and 13.2 so as to form a single inventive concept. Applicants respectfully disagree, and direct attention to section 1850 of the Manual for Patenting Examining Procedure, which states:

Although lack of unity of invention should be raised in clear cases, it should neither be raised nor maintained on the basis of narrow, literal, or academic approach. For determining the action to be taken by the examiner...rigid rules cannot be given and each case should be considered on its merits, *the benefit of any doubt being given to the applicant.* (emphasis added)

MPEP § 1850 (II)(paragraph 4).

The claims of the instant application do not qualify as a "clear case" of lacking unity of invention. Each claim shares the special technical feature of a compound of formula I; a compound of formula I represents a contribution over the prior art. As


stated above the benefit of *any* doubt with respect to unity of invention must be given to the applicant. Applicants therefore respectfully submit that a compound of formula I represents a special technical feature and unity of invention exists between claims 1-3.

Reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

It is hereby requested that the period for replying to the outstanding Office Action be extended one month from December 12, 2009 to January 12, 2010, by the filing of the fee payment which is provided through online credit card payment. The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency (including fees for net addition of claims) or credit any overpayment, to our Deposit Account No. 19-0036. In the event that further extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

Respectfully submitted,

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Date: Jan 12, 2010

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